

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

MICHAEL VAN VLIET

PLAINTIFF

v.

Civil No. 07-5061

NURSE ANDREA GARRETT;
and DR. HUSKINS

DEFENDANTS

REPORT AND RECOMMENDATION OF THE MAGISTRATE JUDGE

Plaintiff filed this civil rights action pursuant to the provisions of 42 U.S.C. § 1983. He proceeds *pro se* and *in forma pauperis*.

On August 1, 2007, defendants filed a motion to compel answers to discovery requests (Doc. 13). Defendants stated they propounded interrogatories and requests for production of documents to the plaintiff on June 5, 2007. Plaintiff failed to respond to the discovery requests.

The motion to compel was granted and plaintiff given until August 28, 2007, to provide the defendants with the discovery responses. On January 7, 2008, defendants filed a motion to dismiss (Doc. 16). In the motion to dismiss, defendants state they have never received the discovery responses from the plaintiff or any communication from him regarding the discovery responses.

Plaintiff has not communicated with the court or sought an extension of time to respond to the discovery requests or to comply with the court's order. I therefore recommend that the defendants' motion to dismiss (Doc. 16) be granted. I recommend this action be dismissed with prejudice based on the plaintiff's failure to prosecute this action and his failure to obey the order of this court. Fed. R. Civ. P. 41(b).

The parties have ten days from receipt of this report and recommendation in which to file written objections pursuant to 28 U.S.C. § 636(b)(1). The failure to file timely objections may result in waiver of the right to appeal questions of fact. The parties are reminded that objections must be both timely and specific to trigger de novo review by the district court.

DATED this 9th day of January 2008.

/s/ J. Marschewski
HON. JAMES R. MARSCHEWSKI
UNITED STATES MAGISTRATE JUDGE